

REMARKS

Summary

Claims 1-22 stand in this application. Claims 1, 7, 13, and 19 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 7, 13, and 19 in order to facilitate prosecution on the merits.

Allowable Claims

We would like to thank the Examiner for indicating the allowability of claims 5, 6, 11, 12, 15-18, and 20-22 if amended to include all of the limitations of the base claims and any intervening claims. Applicant respectfully submits, however, that these claims represent patentable subject matter as currently listed based on the amendments and/or remarks given for the independent claims as discussed in detail below. Applicant would like to respectfully reserve the right, however, to amend the allowable claims into independent form during further prosecution if warranted.

35 U.S.C. § 102

At page 2, paragraph 2 of the Office Action claims 1, 2, 7, 8, 13, 14, and 19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US 7,099,689 to Bahl et al

("Bahl"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Bahl fails to teach each and every element recited in claims 1, 2, 7, 8, 13, 14, and 19 and thus they define over the cited reference. For example, claim 1 has been amended to recite the following language:

... said radio selection policy comprises a set of rules to select said data connection radio based on a minimum bandwidth requirement for said application modules 1-M.

According to the Office Action, this language is disclosed by Bahl at column 2, lines 59-68 and column 7, lines 59-68. Applicant respectfully disagrees.

Applicant submits that claim 1 defines over the cited reference. Bahl, at column 2, lines 59-68, in relevant part states:

The exemplary multi-radio communicator, described herein, reduces the battery consumption of an energy-constrained computing device that is capable of communicating over a wireless network. The exemplary multi-radio communicator selects one of multiple radios (e.g., two) – with each having a unique combination of characteristics (in terms of power-consumption, data-rate, range and/or frequency band of operation) for wireless communications to and from a wireless device. Its selection is done in response to the current conditions so that a proper balance is maintained between energy consumption and wireless network communications bandwidth, which in turn affects user perceived latency.

As indicated above, Bahl arguably discloses a radio selection policy that balances energy consumption and wireless network communications. Applicant respectfully submits that Bahl fails to teach selecting a radio based on minimum bandwidth requirements as recited

in amended independent claim 1. Conversely, the selection in Bahl is made to simply balance the “energy consumption and wireless network communications bandwidth.” By way of contrast, the claimed subject matter recites a power management module to select said data connection radio “based on a minimum bandwidth requirement for said application modules 1-M.” Applicant submits that this is different than the above recited teaching of Bahl.

Furthermore, Bahl at Column 7, lines 59-68, in relevant part states:

Unlike the methodological implementation of FIG. 2, there are two start-states for the methodological implementation described in FIG. 3: blocks 312-314. The first one at 312 is if the user explicitly asks that the device uses the LPR, possibly because he or she wants to preserve the battery and increase the device lifetime. The second start-state at 314 is if the device is running low on batteries. It is possible for both of these start-state conditions (312 and 314) to be true simultaneously.

As indicated above, Bahl arguably discloses a methodological implementation to switch an on-going transmission from HPR to LPR if the device is running on low batteries or if the user explicitly asks the device to use the LPR. By way of contrast, the claimed subject matter recites a power management module to connect to “said application modules 1-M and said radios 1-N to receive a request for a data connection from one of said application modules 1-M.” Furthermore, Applicant submits that Bahl fails to explicitly disclose switching from HPR to LPR in response to requirements of “said application modules 1-M” as recited in independent claim 1. Applicant respectfully submits, therefore, that claim 1 defines over Bahl.

Applicant respectfully submits that he has been unable to locate at least the above recited language of amended independent claim 1 in the teaching of Bahl. Consequently,

Bahl fails to disclose all the elements or features of the claimed subject matter.

Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 2, 3, 4, 5, and 6, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Bahl.

Claims 7, 13, and 19 have been amended to recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 7, 13, and 19 are not anticipated and are patentable over Bahl for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 7, 13, and 19. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 8-12, 14-18 and 20-22 that depend from claims 7, 13 and 19 respectively, and therefore contain additional features that further distinguish these claims from Bahl.

35 U.S.C. § 103

At page 5, paragraph 5 of the Office Action claims 3, 4, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bahl in view of US 7020467 to Tada et al (“Tada”). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Applicant respectfully submits, as recited above, that Bahl fails to disclose each and every element recited independent claims 1 and 7. Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Applicant respectfully submits that Tada

also fails to disclose the above recited missing language of independent claims 1 and 7.

Consequently, Bahl and Tada, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claims 1 and 7. Moreover, Applicant respectfully submits that claims 3, 4, 9 and 10 depend from claims 1 and 7 respectively, and therefore contain additional features that further distinguish these claims over the cited references, taken alone or in combination. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 3, 4, 9 and 10.

Conclusion

For at least the above reasons, Applicant submits that claims 1-22 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

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Examiner: Sobutka, Philip
TC/A.U. 2618

It is believed that claims 1-22 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account 50-4238.

Respectfully submitted,

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/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

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